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Of Counsel

**UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK**

CABINETS TO GO, LLC	X	
	:	Civil Action No: 1:23-CV-03732 (CS)
Plaintiff,	:	(JCM)
	:	
v.	:	
	:	
ABCUS LLC d/b/a STOCK CABINET	:	<u>CONSENT DECREE</u>
EXPRESS, and JUDIE FRED SYMES a/k/a	:	
FRED SYMES d/b/a STOCK CABINET	:	
EXPRESS,	:	
	:	
Defendants.	X	

This civil action having come on before the Court between Plaintiff Cabinets To Go, LLC (“Cabinets To Go” or “Plaintiff”), and Defendants Abcus LLC d/b/a Stock Cabinet Express and Judie Fred Symes a/k/a Fred Symes d/b/a Stock Cabinet Express (individually “Defendant” or collectively “Defendants”), and the Court being advised that the parties reached a settlement in connection with the issues raised in the Complaint and have agreed to a termination and disposition of this civil action in accordance with the following Consent Decree and the entry thereof;



NOW, THEREFORE, upon the consent of Plaintiff and Defendants, it is hereby:

ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction over the parties and over the subject matter of this action. Venue over this action is proper in the United States District Court for the Southern District of New York.

2. Plaintiff is the owner of the trademark, service mark and tradename CABINETS TO GO and the domain name “cabinetstogo.com” in connection with the production, distribution, advertising, promotion offering for sale and sale of kitchen and bathroom cabinets, flooring, counter-tops, sinks, faucets, tiles, and other related items and operates wholesale, retail, and on-line stores featuring these goods.

3. Plaintiff is the owner of the following U.S. registrations:

Mark	Reg. No.	Issue Date	Goods
	5021316	August 16, 2016	Wholesale and retail store services featuring kitchen and bathroom cabinets
CABINETS TO GO	5007979	July 26, 2016	Wholesale and retail store services featuring kitchen and bathroom cabinets; On-line wholesale and retail store services featuring kitchen and bathroom cabinets
	6205781	November 24, 2020	Wholesale and retail store services featuring kitchen cabinets, bathroom cabinets, flooring, counter-tops, cabinet knobs, cabinet organizers, sinks, faucets, back-splash tiles; on-line wholesale and on-line retail store services featuring kitchen cabinets, bathroom cabinets, flooring, counter-tops, cabinet knobs, cabinet organizers, sinks, faucets, back-splash tiles

True and correct copies of the aforementioned registration certificates for CABINETS TO GO service marks are attached hereto as **Exhibit 1**. Plaintiff's aforementioned CABINETS TO GO trademarks, service marks, tradename and domain name shall hereinafter be referred to as the "CABINETS TO GO Marks and Names" and Plaintiff's aforementioned products and services shall hereafter be referred to as "Plaintiff's Products and Services".

4. Plaintiff has brought this civil action seeking injunctive relief and damages for acts of trademark infringement, false designation of origin, unfair competition and deceptive acts and practices arising out of Defendants' use of Plaintiff's CABINETS TO GO Marks and Names in connection with the production, distribution, advertisement, promotion, offer for sale and sale of cabinets and related accessories and related design, installation, wholesale, retail and online store and other services (collectively, the "Offending Products and Services").

5. Defendants shall not contest, directly or indirectly, the validity of or Plaintiff's ownership of the CABINETS TO GO Marks and Names referred to in Paragraph 2 above or the U.S. registrations for the CABINETS TO GO service mark referred to in Paragraph 3 above including in any future proceedings between Plaintiff and the Defendants or either of the Defendants, whether such proceedings constitute an action for contempt or violation of this Consent Decree or claims for or relating to infringement and/or counterfeiting of the aforementioned CABINETS TO GO Marks and Names and/or the aforementioned U.S. service mark registrations.

6. Defendants and their officers, members, agents, servants, employees, successors, assigns, parents, subsidiaries, affiliated or related companies, attorneys and all persons in active concert and/or participation with them who receive notice, are hereby permanently enjoined and restrained from:

i) Using the CABINETS TO GO Marks and Names, or any designations which are confusingly similar thereto or are colorable imitations thereof, as or incorporated in any trademarks, service marks, trade names, company names, domain names or other URLs, social media account names, user names or handles or in any other manner in connection with the production, distribution, advertising, promotion offering for sale or sale of the Offending Products and Services or any other products or services which are identical, similar, or related to Plaintiff's Products and Services;

ii) Infringing upon or diluting the distinctive quality and secondary meaning of Plaintiff's CABINETS TO GO Marks and Names; and

iii) Injuring Plaintiff's business reputation and the goodwill associated with Plaintiff's CABINETS TO GO Marks and Names.

The aforementioned prohibited acts shall include but are not limited to the Defendants' uses of the CABINETS TO GO Marks and Names shown in **Exhibit 2** annexed hereto.

7. Apart from any independent contractual agreements which may be reached between the parties, Plaintiff and Defendants shall bear their own attorneys' fees and costs incurred in connection with this Civil Action.

8. This Court shall retain jurisdiction of this matter and over the parties for the purpose of making any further orders which are necessary or proper for enforcement of this Consent Decree and the punishing of any violation thereof.

9. In view of the fact that no Answer or other pleadings have been filed with the Court on behalf of Defendants in this civil action and it having been represented to the Court that Defendants are being represented by Frederick Samuels, Esq. of the firm Cahn & Samuels LLP

who is not admitted to practice before this Court and has not filed an appearance in this Civil Action, the Court accepts the signature of Mr. Samuels below as an attestation of his consent to and approval of this Consent Decree as to form on behalf of Defendants and hereby directs that upon the Court's endorsement and entry of this Consent Decree, counsel for Plaintiff, Charles P. LaPolla, Esq. shall promptly provide Mr. Samuels with a copy of such enforced and entered Consent Decree, which shall suffice for purposes of Federal Rules of Civil Procedure 77(d) and 5(b).

SO ORDERED.

8/17/23


CATHY SEIBEL, U.S.D.J.

Issued: August 17, 2023

The Clerk shall close the case.

The foregoing Consent Decree is hereby consented to and approved as to form:



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CAHN & SAMUELS LLP
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Suite 401
Washington, DC 20036
Frederick.samuels@cahnsamuels.com
Attorneys for Defendants

The foregoing Consent Decree is hereby consented to and agreed to:

CABINETS TO GO, LLC

By: 

Name: Jill Witter

Title: Chief Legal Officer

Date: 8/3/2023

ABCUS LLC d/b/a STOCK CABINET EXPRESS

By: _____

Name: _____

Title: _____


Date: _____

JUDIE FRED SYMES a/k/a FRED SYMES d/b/a STOCK CABINET EXPRESS

Date: _____

The foregoing Consent Decree is hereby consented to and approved as to form:

Charles P. LaPolla
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(212) 977-9700
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Suite 401
Washington, DC 20036
Frederick.samuels@cahnsamuels.com
Attorneys for Defendants

The foregoing Consent Decree is hereby consented to and agreed to:

CABINETS TO GO, LLC

By: _____

Name: _____

Title: _____

Date: _____


ABCUS LLC d/b/a STOCK CABINET EXPRESS

By: 

Name: COLEEN MILLER

Title: Director

Date: 8/11/2023


JUDIE FRED SYMES d/b/a FRED SYMES d/b/a STOCK CABINET EXPRESS

Date: 

EXHIBIT 1

United States of America

United States Patent and Trademark Office

CABINETS TO GO

Reg. No. 5,007,979

Registered Jul. 26, 2016

Int. Cl.: 35

Service Mark

Principal Register

CABINETS TO GO, LLC (FLORIDA LIMITED LIABILITY COMPANY)
3000 WACHOVIA FINANCIAL CENTER
200 SOUTH BISCAYNE BOULEVARD
MIAMI, FL 33131

CLASS 35: Wholesale and retail store services featuring kitchen and bathroom cabinets; On-line wholesale and retail store services featuring kitchen and bathroom cabinets

FIRST USE 8-25-2009; IN COMMERCE 8-25-2009

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 3827234

No claim is made to the exclusive right to use the following apart from the mark as shown:
"CABINETS"

SER. NO. 86-852,233, FILED 12-17-2015

KELLY F BOULTON, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

CABINETS TO GO
...Premium Cabinets FOR LESS!!

Reg. No. 5,021,316

Registered Aug. 16, 2016

Amended Feb. 14, 2017

Int. Cl.: 35

Service Mark

Principal Register

CABINETS TO GO, LLC (FLORIDA LIMITED LIABILITY COMPANY)
3000 WACHOVIA FINANCIAL CENTER
200 SOUTH BISCAYNE BOULEVARD
MIAMI, FL 33131

CLASS 35: Wholesale and retail store services featuring kitchen and bathroom cabinets; On-line wholesale and retail store services featuring kitchen and bathroom cabinets

FIRST USE 3-00-2014; IN COMMERCE 3-00-2014

The color(s) Dark Purple and Light Purple is/are claimed as a feature of the mark.

The mark consists of the stylized word "CABINETS" in dark purple followed by the stylized words "TO GO" light purple, all above the term "...Premium Cabinets FOR LESS!!" in dark purple.

OWNER OF U.S. REG. NO. 3827234

No claim is made to the exclusive right to use the following apart from the mark as shown:
"PREMIUM CABINETS FOR LESS"

SER. NO. 86-852,268, FILED 12-17-2015



Michelle K. Lee

Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

CABINETS TO GO

Reg. No. 6,205,781

Registered Nov. 24, 2020

Int. Cl.: 35

Service Mark

Principal Register

CABINETS TO GO, LLC (FLORIDA LIMITED LIABILITY COMPANY)
2350 Wo Smith Dr
Lawrenceburg, TENNESSEE 38464

CLASS 35: Wholesale and retail store services featuring kitchen cabinets, bathroom cabinets, flooring, counter-tops, cabinet knobs, cabinet organizers, sinks, faucets, back-splash tiles; on-line wholesale and on-line retail store services featuring kitchen cabinets, bathroom cabinets, flooring, counter-tops, cabinet knobs, cabinet organizers, sinks, faucets, back-splash tiles

FIRST USE 8-10-2019; IN COMMERCE 8-10-2019

The mark consists of the word "CABINETS" above the wording "TO GO".

OWNER OF U.S. REG. NO. 5021316, 5007979

No claim is made to the exclusive right to use the following apart from the mark as shown: "CABINETS"

SER. NO. 88-929,058, FILED 05-22-2020



Andrei Iancu

Director of the United States
Patent and Trademark Office



EXHIBIT 2



"cabinets to go"



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Cabinets.com® Makes It Easy - Cabinets That Go In Your Style [AD](#)

Save 30% on fully assembled cabinets, plus we'll design your kitchen - for free! Our designers work with you to build your kitchen, in your style. Start Your Design Today!

Service catalog: Sample Doors, Free Design Help

<https://cabinetstogo.com>

Cabinets To Go Your One Stop Dream Kitchen Shop

At Cabinets To Go, we are here for you at all times and for all of your cabinet needs. We can greet you in one of our 100+ stores nationwide or we can handle your requests online or on the phone. No matter how you choose to interact with us, you can be certain that our expert, local designers can provide a solution for you. ...

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With expert kitchen designers on hand at each and every one of our stores, w...

Countertops

Countertops Beautiful, Durable, and Easy to Maintain. Corsica, Northstar an...

Flooring

Flooring Tough enough for every room in your home. •The best selection of...

<https://www.yelp.com/biz/cabinets-to-go-cornwalle>

CABINETS TO GO - 66 Photos & 93 Reviews - Yelp

93 reviews of Cabinets To Go "This firm is affiliated with Lumber Liquidators and you are going to be hearing a lot more about them in the future. We recently inherited a house built in 1954 that needed 57 years of building code updates and remodeling including a new kitchen. We were able to score the kitchen cabinets, a Shaker design in American cherry for a ridiculously low price.

[Videos](#)

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Lumber Liquidators. Cabinets To Go is headquartered in Lawrenceburg, Tennessee. The first store opened in Miami, Florida, and the company now operates 86 stores across the country.

 <https://www.stockcabinetexpress.com> - cabinets-to-go

RTA Cabinets - Kitchen Cabinets To go | Stock Cabinet Express

10x10 kitchen for \$2,108. Pacifica: 10x10 kitchen for \$2,205. Click here to shop more quality RTA kitchen cabinets - to go! What do we mean by cabinets to go? At StockCabinetExpress we provide you with a simple, streamlined online shopping experience. You can purchase all of your kitchen cabinets and accessories from the comfort of your own ...

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 <https://www.lowes.com> - Kitchen Cabinetry Kitchen

Kitchen Cabinetry - Lowe's





Kitchen Cabinetry. Selecting kitchen cabinets involves weighing a number of considerations, including storage, style and space. Lowe's has the kitchen pantry cabinets, base & corner cabinets, and wall cabinets you need to complete the kitchen you've always wanted. With a range of kitchen cabinet colors and designs, you can customize your ...

 <https://kitchencabinetkings.com>

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Kitchen Cabinet Kings is a leading distributor of pre-assembled and ready to assemble kitchen cabinets online. We deliver our premium, stock cabinetry to your home or job site in 7-21 business days, with savings up to 38% versus big box and local retailer pricing. Whether you're looking for wholesale kitchen cabinets, ready to assemble bathroom ...

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for \$1,649



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What do we mean by cabinets to go? At StockCabinetExpress we provide you with a simple, streamlined online shopping experience. You can purchase all of your kitchen cabinets and accessories from the comfort of your own home. This eliminates numerous trips to your local dealer or big box store, saving you valuable time. We also sell our cabinets at a discounted rate, so you'll find your cabinets for much cheaper than you would when buying in person.

We provide the best quality cabinets on the market for the consumer who is looking for value, quality and affordability. Our promise to you is to offer competitive prices backed by excellent customer service and timely delivery. We ensure that you complete your remodel project on time, at a very low cost and with the peace of mind you deserve.

- Our cabinets to go provide you with great quality and huge savings.
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-- Luis C., Chester VA

"The biggest challenge that we faced prior to purchasing from stockCabinetExpress was the low quality cabinets and how much they would have cost, regardless if they were already assembled. We purchased from StockCabinetExpress because of the quality/construction of the cabinets, the selection of cabinets to choose from and the cost. The cabinets were of much better

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quality/construction than what was expected. The customer service was impeccable. The wait time from the time we ordered the cabinets to the time we actually received them was unreal! It is obvious that the customer is your #1 priority!"

-- Kenneth K.,

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